

Model W-2 Subcontract

I. Parties and Contract Period

This contract is between _____ whose business address is, _____, Hereinafter referred to as 'Purchaser' (the W-2 Contract agency), and _____, whose business address is, _____ hereinafter referred to as 'Provider' (the Subcontract Agency). This contract is effective for the period of _____.

The Provider's Contract Manager, who is the Provider's employee responsible for day-to-day administration of this Contract, is [enter name and phone number]. In the event that the Provider's Contract Manager is unable to administer this contract, the Provider will contact the Purchaser and designate a new contract manager.

The Purchase's Contract Manager, who is the Purchaser's employee responsible for day-to-day administration of this contract, is [enter name and phone number]. In the event that the Contract Manager is unable to administer this contract, the Purchaser will contact the Provider and designate a new contract manager.

The Purchaser and the Provide may mutually agree to renew this contract for a term not to exceed the term of the Purchaser's Wisconsin Works (W-2) and Related Programs Contract with the Department of Workforce Development (DWD).

Commentary:

Providers with multiple service facilities represent a unique situation. In these cases, if the Purchaser makes direct payment to the Central Corporate entity for services at the several service sites or facilities, the Central Corporate entity is regarded as the Provider. If, however, payment is made individually he various service facilities, a separate contract is required for each because each is a provider.

II. Services to be Provided

Subject to the terms and conditions set forth in the Wisconsin Works (W-2) and Related Programs Contract, the Purchaser agrees to purchase and the Provider agrees to provide to eligible participants the services as described in detail in this contract.

All services under this contract shall be provided in accordance with DWD's policies and procedures, as stated in the W-2 and related Programs Contract.

Commentary:

This section must consist of locally developed statements of services and other program deliverables as well as a precise narrative and statistical statements of the following:

- *Specific W-2 services to be provided;*
- *Number of W-2 participants to receive such services;*
- *Cost per unit delivered; and*
- *Timeframe in which W-2 services are to be provided.*

Services may be described in an application/RFP/plan that is approved by the Purchaser and included in this contract by reference. Give the Provider the W-2 and Related Programs Contract and any other pertinent language, such as specific sections of the W-2 RFP.

III. Payment for Services

A. Funding

1. Availability and Limitation

Funding in the amount of \$_____ is made available by the Purchaser for the delivery of services described in Section II of this contract.

NOTE: Include the budgeted unit cost for each service in part II unless this is reflected in a plan included by reference.

2. Payment Procedures

When expenditure report are submitted in accordance with Section XIV, the Purchaser shall reimburse the Provider within ____ days of receipt of expenditures reports or give written notice of the reason(s) for non-payment.

IV. Indemnity and Insurance

- A. The Provider agrees that it will at all times during the existence of this contract indemnify the Purchaser against any and all loss, damage costs or expense which the Purchaser may sustain, incur, or be required to pay by reason of any eligible client's suffering, personal injury, death or property loss resulting from participant in or receiving the care and services to be furnished by the Provider under this contract. However, the provisions of this paragraph do not apply to liabilities, losses, charges, costs, or expenses caused by the Purchaser.
- B. The Provider agrees that, in order to protect itself as well as the Purchaser under the indemnity provision set forth in the above paragraph, the Provider will at all times during the terms of this contract keep in force a liability insurance policy issued by a company authorized to do business in the State of Wisconsin and licensed by the Office of Insurance Commissioner. Upon the execution of this contract, the Provider will furnish the Purchaser with written verification of the existence of such insurance. In the event of any action, suit, or proceeding against the Provider upon any matter herein indemnity against, the Provider shall, within five (5) working days, addressed to its post office address.
- C. The Provider and any subcontractor performing services under this subcontract as well as any subcontractors performing services shall:
 - 1. Maintain worker's compensation insurance, as required by Wisconsin Statutes, for all employees engaged in the work; and

2. Maintain commercial liability, bodily, injury and property damage insurance against any claim(s), which might occur in carrying out this contract. Minimum coverage shall be one million dollars (\$1,000,000) liability for bodily and property damage including product liability and completed operations.
3. Provide motor vehicle insurance for all owned, non-owned and hired vehicles are used in carrying out this contract. Minimum coverage shall be one million dollars (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.

NOTE: A county is not required to carry insurance coverage under this provision to the extent that its employees are covered by a self-insurance program under sec.895.46, Wis. Stats.

V. Affirmative Action/Civil Rights Compliance

Non-discrimination

The Provider agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, creed, sex, national origin or ancestry, disability developmental disability as defined in section 51.01(5) Wisconsin Statutes, physical condition, arrest or conviction record, marital status, political affiliation, military participation, use of lawful products, or sexual orientation as defined in section 111.32(13m) Wisconsin Statutes. This provision includes, but is not limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Provider further agrees to take affirmative action to ensure equal employment opportunities.

Civil Rights Compliance Submittal Requirements

The W-2 Contract agency and the subcontractor must sign the Assurance of Civil Rights Compliance form (Attachment G).

The Provider and any of its subcontractors must comply with the following Civil Rights Plan/Letter of Assurance Requirements:

Agencies that have twenty-five (25) or more employees and receive more than \$25,000 must develop and submit a Civil Rights Compliance Plan, to the W-2 Contract Agency.

Agencies that have less than twenty-five (25) employees and receive less than \$25,000 must develop and submit a Letter of Assurance of Civil Rights Compliance in lieu of a Plan, to the W-2 Contract Agency.

Submittal is required within thirty (30) days of signing the subcontract. Model documents for the Letter of assurance or the Compliance Plan may be found at http://dwd.wisconsin.gov/dws/civil_rights/default.htm

VI. Health and Safety

The Provider agrees to take safety precautions at staff locations and with equipment, as required in the W-2 and related Programs Contract.

The Provider agrees to follow the requirements of the Pro-Children act 1994, as required in the W-2 Contract.

VII. Bonuses to Employees

The Provider will provide the Purchaser with a copy of the Provider's policies on bonuses to their employees or sign the Bonus Statement (Attachment F) as an attachment to this subcontract.

VIII. Subcontracting by W-2 Subcontractors

For purposes of the W-2 Contract, subcontracting by subcontractors is permitted. All subcontractors, whether first-, second-, third-tier, or more must abide by all applicable terms of the W-2 Contract and by the Department's policies and procedures.

The Provider is responsible for fulfillment of the terms of this contract and must give written notification of any subcontracting of the services in this contract, to the Purchaser prior to making payments to the next-tier subcontractor.

IX. Procurement

The Provider agrees to conduct its procurement transactions for purchases under the contract by adhering to all applicable federal, State, and local requirements.

X. Faith-Based

The Purchaser will not require the faith-based Provider to alter its definition, development, practice or expression of its religious beliefs, nor shall it require the faith-based Provider to alter its internal governance or remove religious art or any other expression of its religious belief.

The Purchaser will make available within a reasonable time an alternative provider of the same services, worth the same value, to any participant who objects to the religious character of the faith-based Provider from which the participant would receive services or assistance.

The Purchaser shall require the faith-based Provider to meet all fiscal and accounting standards, and generally accepted accounting principles.

XI. Renegotiations

This contract or any part thereof will be renegotiated in the case of 1) increased or decreased volume of services; 2) changes required by federal or state laws or regulations or court action; or, 3) monies available affecting the substance of this contract.

- A. Failure to comply with any part of this contract may be considered cause for revision, suspension, or termination.
- B. The Purchaser and the Provider must agree to revisions of this contract by an addendum signed by the authorized representatives of both parties.
- C. The Provider shall notify the Purchaser whenever it is unable to provide the required quality or quantity of services. Upon such notification, the Purchaser and the Provider shall determine whether such inability will require a revision or cancellation of this contract.
- D. If the Purchaser finds it necessary to terminate this contract prior to the expiration date of this contract, for reasons other than non-performance by the Provider, actual approved costs incurred by the Provider may be reimbursed in an amount determined by mutual agreement of both parties.
- E. The Purchaser reserves the right to cancel any contract in whole or in part without penalty due to non-appropriation of funds by the State of Wisconsin or for failure of the Provider to comply with terms, conditions, and specifications of this contract.
- F. This contract can be terminated by a ____ calendar day written notice by either party.

XII. Resolution of Disputes

Settlement of any disputes that may arise concerning the provisions of this contract is the responsibility of both parties. If a negotiated settlement cannot be reached within thirty (30) days of the issue identification, the provisions of Section XI may be initiated.

The parties agree that any loss or expense, including costs and attorney fees imposed by law, will be charged to the party responsible for the office, employee or agency whose actions caused the loss or expense.

XIII. Records

- A. The Provider shall maintain such records and financial statements as required by state and federal laws, rules, and regulations.
- B. The Provider will allow inspection of records and programs, insofar as it is permitted by state and federal laws, by representatives of the Purchaser, the DWD and its authorized agents, and federal agencies, in order to confirm the Provider's compliance with the specifications of this contract. The Provider agrees to cooperate with the Purchaser in developing, implementing, and monitoring corrective action plans that result from any reviews.
- C. The use or disclosure by any party of any information concerning eligible participants who receive services from the Provider for any purpose not connected with the administration of the Provider's or the Purchaser's responsibilities under this contract is prohibited except with the informed, written consent of the eligible participant or the participant's legal guardian.

XIV. Reporting

A. Invoicing Procedures

1. Monthly invoices for services provided must be submitted to the Purchaser within _____ calendar days following the end of the month of expenses. The invoice must identify the total amount of reimbursement being sought. The categories, which shall be used to report expenses, must follow the DWD's contract reporting requirements (http://dwd.wisconsin.gov/core/program_descriptions/w2.htm)
2. Monthly invoices shall be submitted to: _____.
3. The Provider shall submit claims for reimbursement under this contract to the Purchaser within 45 days of contract end.

B. Reports, Participant Confidentiality, and System Security

1. The Provider agrees to supply the Purchaser with monthly report (s) relating to delivery of services under this contract that will include the following requirements:

2. The Provider agrees to report services that are provided through the direct entry of data into DWD's automated reporting system(s). The Purchaser assures that any preliminary data entry required to enable the Provider to use DWD's automated reporting system (e.g., referral and enrollment data) will be entered in a timely manner.

The Provider will follow the requirements outlined in the Security Manual to gain access to DWD's automated reporting system (<http://dwdworkweb/dws/manuals/securitymanual.htm>). The Provider must identify themselves as a 'subcontractor' when completing the Computer Access Request form (DES-10).

NOTE: This section may be modified depending upon the degree of accessibility to DWD's automated reporting system to the subcontractor.

3. The Provider must assure adequate steps have been taken to safe guard sensitive client and administrative information contained in DWD's automated systems by meeting the standards set forth by DWD. (<http://dwdworkweb/dws/manuals/securitymanual.htm>)
4. The Provider must assure adequate security for the network by meeting the standards set forth by DWD. (http://www.dwd.state.wi.us/w2tech/network_security.htm.)

XV. Provider Responsibilities

The Provider agrees to meet state and federal service standards and applicable state licensure and certification requirements as expressed by state and federal rules and regulations applicable to the services covered by this contractual agreement (<http://www.state.wi.us/des/pdf/dwsppcg.pdf>).

In addition, the Provider must do the following:

A. Adhere to the following audit requirements:

The Provider must provide an annual audit to the Purchaser. The standards for the Provider annual audits vary by funding levels as shown below:

1. The Provider that expend \$500,000 or more in a year in federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133 and either the state Single guidelines or the Provider Agency Audit Guide.
2. The Provider that expend less than \$500,000 in a year in federal awards, but more than \$25,000 in Department of Workforce Development (DWD) funds shall have a limited scope as provided for in Subpart B, Section 230 (b)(2) or OMB Circular A-133, unless waived by the DWD. The Provider must contact the DWD in writing for this waiver.
3. These limited scope audits shall consist of agreed-upon procedures engagements conducted in accordance with either the American Institute of Certified Public accountants' (AICPA) generally accepted auditing standards or attestation standards, that are paid for and arranged by the Purchaser and address only the following types of compliance requirements relative to the W-2 program; active allowed or unallowed; allowable costs/cost principles; eligible and reporting.

B. Maintain a uniform double entry accounting system and a management information system compatible with cost accounting and control system.

XVI. Required forms

The following forms must be signed, dated and attached to this subcontract:
Certification Regarding Debarment and Suspension,
Certification Regarding Lobbying, (available in the Department's Internet Forms Repository)
Disclosure of Lobbying Activities, (available in the Department's Internet Forms Repository)
Affidavit of Fair Competition for Subcontracts,
Subcontract Agency Identification Form;
Bonus Policy; and
Assurance of Civil Rights Compliance

XVII. Conditions of the Parties Obligations

A. Disclosure of Independence and Relationship

1. No Relationship; No Conflict of Interest

When signing this contract and the Affidavit of Fair Competition for Subcontracts form, the Provider certifies that no relationship exists between the Provider and the Purchaser that interferes with fair competition or is a conflict of interest, and no relationship exists between the Provider and another person or organization that constitutes a conflict of interest with respect to this contract. If there is a conflict of interest develops the Provider must notify the Purchaser's Contract Manager. The Purchaser will refer this notice from the Provider to the DWD's Contract Manager. The DWD Contract Manager may waive this provision in writing, if the activities of the Provider will not be adverse to the interests of the DWD.

Commentary:

Some examples of exceptions for Conflict of Interest coverage are:

The Purchaser recognizes that the Provider contracts with other W-2 Contract agencies, as well as with other social service agencies that may have contracts with DWD, and the parties agree that the Provider shall be free to continue or accept other work during the term hereof; provided, however, that such work shall not interfere with the provision of services hereunder. Such contracts shall not be construed as a conflict or adverse interest, or as a violation of this Agreement.

The Purchaser recognizes that the Provider is a law firm, which may be engaged in representing Purchaser's customers in legal matters pertaining to services provided by Purchaser, or in other representation outside the scope of services in this contract. Said representation of these customers for legal services other than described in this contract is not prohibited by this contract, and shall not be interpreted as a conflict or adverse interest, or as a violation of this Agreement.

The Purchaser must contact the DWD Contract Manager if there is any question or appearance of a conflict of interest.

B. Independent Capacity

The Parties hereto agree that the Provider, its officers, agents, and employees, in the performance of this contract shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the State. The Provider agrees to take such steps as may be necessary to ensure that each sub-contractor of the Provider will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venture, or partner of the State or the Purchaser.

C. Contingencies

This contract is contingent upon authorization of Wisconsin and United States laws and any material amendment or repeal of the same affecting relevant funding or authority of the DWD shall serve to terminate this contract, except as further agreed to by the parties hereto.

D. Lawful Powers

Nothing contained in this contract shall be construed to supersede the lawful powers or duties of either party.

E. Complete Contract

It is understood and agreed that the entire contract between the parties is contained herein, except for those matters incorporated herein by reference, and that this contract supersedes all oral agreements and negotiations between the parties relating to the subject matter thereof.

F. Complaints

The Purchaser shall be notified in writing of all complaints filed in writing against the Provider. The Provider shall inform the Purchaser in writing with their understanding of the resolution of the complaint.

G. Failure Penalty

The Purchaser and the Provider agree that the following criteria will form the basis of determination of acceptable performance under this contract:

The Purchaser and the Provider agree that the Purchaser is responsible for monitoring performance, compliance and costs claimed of all subcontractors. These monitoring efforts will be documented and may include on-site visits. Any cost disallowed as a result of subcontractor monitoring will be recovered by the Purchaser.

NOTE: This is where the local Purchaser identifies criteria by which performance will be monitored for acceptability. The W-2 Contract is available as a reference.

H. Coordination and Cooperation

The Provider must coordinate and cooperate with other agencies, in accordance with the W-2 and Related Programs Contract.

I. The Provider may be subjected to a failure penalty, in accordance with the terms of the W-2 and Related Programs Contract.

XVIII. The following terms survive the contract:

Records; (Section XIII)
Failure Penalty; (Section XVII)
Coordination and Cooperation; (Section XVII)
Audit and Audit Liabilities; (Section XV)
Indemnity and Insurance; (Section IV)

XIX. Signatures

This contract is agreed upon and approved by the authorized representatives named below.

This contract becomes null and void if the time between the Purchaser's authorized representative signature and the Provider's authorized representative signature on this contract exceeds sixty (60) business days.

Purchaser:	_____	_____
	Authorized Representative	Date

	Title	

	Print Name	
Provider:	_____	_____
	Authorized Representative	Date

	Title	

	Print Name	

Commentary:

Either an individual provider or a provider's authorized representative must sign this contract. If the application of this general rule is unclear in a particular case, the purchasing agency will need to seek advice from its legal counsel.